

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Joseph Sieber, Chairman;
Gerald Yarbrough, Vice Chairman;

FROM: Nancy Hunt, Executive Secretary
Board of Review

Subject: Minutes of the March 2, 2016
Board of Review Meeting

Date: March 3, 2016

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, March 2, 2016, at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. **The next regular meeting of the Board of Review is scheduled for Wednesday, March 9, 2016, at 9:00 a.m.** at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Mr. Sieber, Chairman
Mr. Yarbrough, Vice-Chairman
Ms. Futterman, Board Member
Ms. Hunt, Executive Secretary

2. Following a motion by Mr. Yarbrough and seconded by Ms. Futterman, the minutes of the February 24, 2016 meeting were approved.

3. New Business

(a) Dkt. No.: 00068835

The issue presented to the Board by Appellate Specialist Gitter to decide whether the Appeal Tribunal had jurisdiction to rule on a determination issued on a 2010 claim which caused a refund. The Appeal Tribunal held the appeal was not timely and dismissed the appeal. After review of the record, the Board voted to reverse the timeliness decision, and held the availability issue academic as the claimant was not notified of the refund for

more than four years after the benefits were paid by the Appeal Tribunal. Mr. Gitter will prepare the decision.

(b) Dkt. No.: 00063606

In this matter, the issue presented to the Board by Appellate Specialist Cohen was whether the claimant left work voluntarily. The Deputy held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a) for leaving work without good cause, and liable for refund. The Appeal Tribunal affirmed the Deputy. After consideration, the Board of Review voted to affirm the decision holding the claimant disqualified for benefits and liable to refund. Mr. Cohen will prepare the decision.

(c) Dkt. No.: 00064093

This issue presented to the Board by Appellate Specialist Zola was whether the claimant is entitled to a disability alternate base year. The Deputy held the claim dated June 15, 2015 invalid and the claimant not entitled to a valid claim for benefits based on an alternate base year under N.J.S.A. 43:21-19(c)(3). The Appeal Tribunal affirmed the Deputy, however the decision lacked a finding of fact and opinion. The Board remanded for a written decision for a finding of fact and opinion that is supported by the record. Ms. Zola will prepare the remand.

(d) Dkt. No.: 00074890

At issue in this matter presented to the Board by Appellate Specialist Hart is whether the claimant is an independent contractor for employer #1 or an employee of employer #2. The Appeal Tribunal concluded that the claimant did not have subject employment with employer #1 under N.J.S.A. 43:21-19(i)(16), but that the Division should consider whether the earnings could be applied to employer #2 to establish a claim. The Board decided that the appeal to the Board was non-justiciable as, in the interim, the Division had issued a redetermination with employer #2 as the chargeable employer. Ms. Hart will prepare the decision.

There being no further business to transact, a motion was made by Ms. Futterman to adjourn the meeting. Mr. Yarbrough seconded the motion.

SUBMITTED FOR APPROVAL:

Nancy Hunt
Executive Secretary

NH:ldv